*Statement*

High Court

O. O. C. J.

Writ Petition No. 2629 of 1990

Hoechst (India) Limited & Anr. Petitioners

V/s.

Union of India & Others Respondents

Coram : Pendse & Jhunjhunwala JJ

Date : 8th March 1991

*MINUTES OF THE ORDER*

1. Chamber Summons allowed. Petition to be amended accordingly. Amendments to be carired out within two weeks hereof.

2. The Notices mentioned in prayer clause (a) (iv) as amended will be treated by the parties as Show Cause Notices and the Petitioners shall reply to the same giving particulars called for and with liberty to them to raise all contentions including those raised in the Petition within a period of eight weeks.

3. At the request of the Petitioners the Government will furnish particulars consistent with the judgement of the Supreme Court in Cyanamid's case within a period of four weeks from the date on which the Petitioners file their replies referred to in Clause 2.

4. The Respondents will dispose of the matter and tentatively determine in liability, If any, due from the Petitioners, within eight weeks thereafer.

5. Thereafter, the Government shall bear the Petitioners within four weeks of the above and pass speaking orders, which orders if adverse to the Petitioners shall not be enforced against the Petitioners for a period of eight weeks to enable the Petitioners to adopt such proceedings as they may be entitled to in law and with liberty to them to raise all contentions including those raised in the Petition.

6. In view of the above, Petition is allowed to be withdrawn.

7. Liberty to apply.

**Higher CIF import price of bulk drug**

514. SHRI H. HANUMANTHAPA : Will the PRIME MINISTER be pleased to state :

(a) what are the names of the bulk drugs on which custom duty was reduced during 1992-93 and revised rate of custom duty on these bulk drugs;

(b) what are the major formulation based on each of these bulk drugs where formulation prices linked to these bulk drugs, have been reduced following custom duty reduction;

(c) what were the earlier and the reduced prices of the formulations and the bulk drugs;

(d) whether it is a fact that some of the importers have started importing at a higher CIF import price to nullify the effect of custom duty reduction; and

(e) what are the names of bulk drugs in respect of which details have not been received so far from the importers ?

THE MINISTER OF STATE IN THE MINISTRY OF CHEMICALS AND FERTILIZERS (SHRI CHINTA MOHAN) : (a) Changes in customs duty are notified from time to time indicating names of items and applicable duty rates. During 1992-93, two such Notifications bearing Nos. 216/92/cus dated 19-6-1992 and 254/92/cus dated 31-7-1992 have been issued in regard to bulk drugs and their copies are available in the Parliament Library.

(b), (c) and (e) Customs duty on bulk drug is only one of the numerous cost-inputs in the pricing of a formulation and almost all cost inputs have been generally on the increase due to inflationary conditions and also due to changes in the foreign exchange regime. Customs duty was reduced so as to maintain availability and avoid impending shortages. Under the circumstances,

the total effect is not necessarily the reduction in prices of formulations, though while determining the price of a price-controlled formulation, the Government takes into account all the factors including reduction in customs element in bulk drug price. The prices of relevant formulations in the decontrolled category are being kept under watch to ensure that the companies do not derive unintended benefit.

(d) Import price of a bulk drug depends on the situation in the international market as prevailing from time to time.

**Case of overcharging of price under DPCO of 1979 and 1987**

*515. SHRI H. HANUMANTHAPPA:*
SHRI RAJNI RANJAN SAHU :

Will the PRIME MINISTER be pleased to state :

(a) What are the details of cases of overcharging of price which have so far been identified under DPCO, 1987;

(b) whether the cases under DPCO 1979 relating to overcharging have been dropped and if not, what is the position thereof;

(c) when each case came to the notice of Government, what was the product and the company involved and what the present position of each case; and

(d) whether extent of liability due to overcharging have been determined in each case and if not, what are the particulars of the cases where liability has been worked out and what are the details of those where liability has not been determined so far ?

THE MINISTER OF STATE IN THE MINISTRY OF CHEMICALS AND FERTILIZERS (SHRI CHINTA MOHAN) : (a) to (d) The details of cases of overcharging under DPCO 1979 and DPCO, 1987 including the details of names of companies, the period and the drug involved and the tentative liabilities assessed is attached in the Annexed Statement. (*See* below). The process of assessment of liabilities entails scrutiny of the relevant data regarding production sales and sales prices and the delay in determination of the liability has occurred on account of non-recept of data from the companies in a number of cases. There is no question of dropping any case relating to overcharging under DPCO, 1979.

**Statement**

*Over-Charging of Price under DPCO-1979 and DPCO-1987*

(I) *SUPREME COURT CASE COMPANIES*

(Rs. in lakhs)

| Sl. No. | Name of the Company (Drugs involved) | Period involved | Tentative Assessment | Amount Received |
|---|---|---|---|---|
| 1 | 2 | 3 | 4 | |
| 1 | M/s. Cyanamid (I) Ltd. . . . (Demethylchloro Tetracycline & Formulations) | Upto Oct. '83 | 490.47 | 100-00 |
| | | 1984-87 | 830.05 | |
| | | TOTAL : | 1320.52 | |
| 2 | M/s. Hoechst (I) Ltd. . . . (Baralgon Ketone, PMT, Frusemide, Pheniramine Maleate, Glybenclamide & Formulations) | Upto Dec. '83 | 2491.05 | 312.10 |
| | | 1984-87 | 5289.75 | |
| | | TOTAL : | 7780.80 | |